

GEORGE W. SMITH.

FEBRUARY 2, 1897.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3329.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 3329) to increase the pension of George W. Smith, having considered the same, respectfully adopt the report of the Senate Committee on Pensions, and recommend that the bill do pass without amendment.

[Senate Report No. 1250, Fifty-fourth Congress, second session.]

The Committee on Pensions, to whom was referred the bill (S. 3329) to increase the pension of George W. Smith, late a captain, Seventh Regiment New Jersey Infantry Volunteers, have considered the same, and submit the following report and recommendation:

George W. Smith enlisted and was appointed a sergeant in Company C, Seventh New Jersey Infantry Volunteers, on the 23d day of August, 1861, and was discharged as a captain of said company on the 11th day of January, 1864, on surgeon's certificate "on account of inability to continue his duties, owing to disabilities incurred in the service."

"At the battle of Chancellorsville, Va., May 3, 1863, he received a gunshot wound through the lower jaw, tongue, and neck, the submaxillary bone being badly shattered, and resulting in serious complications and permanent disability."

He filed a claim for this disability, and was allowed \$8 from the 6th day of October, 1874. On the 6th day of April, 1889, he filed a declaration for increase, alleging same disabilities, and was allowed \$15 from March 14, 1890.

On December 28, 1893, he filed a declaration for increase, in which he alleged not only the disability for which he draws pension, but alleged also "that on the third day of the battle of Fredericksburg I strained my back." He again filed a declaration for increase November 7, 1895, alleging same disabilities.

In the claimant's affidavit of October 3, 1895, among other things, he states: "I sprained my back at the battle of Fredericksburg, as follows: On the third day of the battle in the afternoon both armies ceased firing, when both armies threw out skirmish lines. I was ordered out from our regiment with one hundred men. * * * Night came on, and our army in the darkness withdrew to the easterly side of the Rappahannock River. About 2 o'clock in the morning I was ordered to rally the line on the left very quietly and go for a light, which was at the pontoon bridges. In going we had to cross a creek or ditch about five or six feet wide and about four or five feet deep. I attempted to jump it, but slipped and struck the other bank and fell back into the water. I could scarcely get out and over to the pontoons myself, as I had sprained my back so bad. Every man was looking out for himself, as the army was in a hurry to take up the pontoons. Next morning I was taken in an ambulance to the brigade hospital, where I was treated for sprained back for over six weeks before I could report for duty. From that time to this I have been doctoring more or less for my back, until some years ago it run into the spine disease, and now I am entirely incapacitated for any kind of business." * * *

This evidence is corroborated by a number of the claimant's comrades, whose testimony is on file with the papers in the Pension Bureau, and who were either eye-witnesses of the claimant's mishap or became acquainted with the fact immediately after he had reached the bank. There are some nine or ten affidavits of his comrades on file, which show conclusively that the claimant was taken to the brigade hospital for treatment, but in answer to the Pension Commissioner's request for a military and medical history of claimant, the War Department reports as to medical record "that there are no records on file for brigade hospital, Second Brigade, Second Division, Third Army Corps, bearing on this case.

This mishap affected the claimant's spine, producing nervous disabilities which have resulted in a bad case of locomotor ataxia.

The claimant is now paralyzed from his waist down, and it is impossible for him to get about or help himself in any manner and needs the constant aid of another person.

His physical condition has been recited by numbers of witnesses in their affidavits, both lay and medical, from the time prior to his entering the Army and during his service therein and down to the present time. These witnesses have all been examined by special examiners sent out by the honorable Commissioner of Pensions in the claimant's behalf, and their depositions are all on file with the papers in the claim. In no instance has the statement previously made been shaken, but rather have these special examinations of the witnesses only served to strengthen the claim of the soldier. The claimant himself has been examined at his home on several occasions, and as many depositions appear of record in the Pension Bureau. Every special examiner who has seen the soldier is positive in his declaration that he is totally disabled, and that he will not live long, and recommend the rate for total disability. The best evidence of his present condition can be gleaned from the statement of the pension examining physician, Dr. H. C. James, secretary of the board of pension examiners, Atlantic City, N. J., who was sent by the honorable Commissioner to the home of claimant, there to examine him and report in full. Copy of this statement is hereto attached and marked Exhibit A, and made a part of this report.

The question here is whether the locomotor ataxia, from which the soldier is suffering, is the result of the injury of the spine which he incurred in the service. It seems to be conceded that the injury of the spine, with its subsequent effects upon the nervous system, may be the primary cause for the development of the disease of the character suffered by claimant. In this case, however, the medical referee of the Pension Bureau declines to accept the injury of the spine as the cause of locomotor ataxia, although it is admitted that there is no other cause shown for the disease, even though the soldier has been examined time and again by the best medical men the Bureau can produce. There is nothing whatever in the testimony on file, medical or lay, nor has any statement been brought out by the numbers of special examinations made which in any way show that the claimant has suffered at any time or is now suffering from any disease or injury other than the injury to the spine which could have resulted in his present condition. The examining surgeons, some of whom have known him quite well, report that he is a man of the highest character and of absolutely correct and temperate habits.

It is believed, after considering all the circumstances and the evidence, that it would be but a matter of justice and equity to allow this claim at the rate of \$50 per month. The doubts in the case are not such but that they can very properly be resolved in the claimant's favor.

Your committee therefore recommend the allowance of the claim at \$50 per month, and further recommend that the bill be amended, in line 6, by adding, after the word "month," the following: "in lieu of the pension he is now receiving," and by striking out the words "seventy-two" and inserting "fifty."

EXHIBIT A.

ATLANTIC CITY, N. J., July 17, 1896.

We hereby certify that in compliance with the requirements of the law we have carefully examined this applicant, who states that he is suffering from the following disability incurred in the service, viz, injury to spine, or spinal trouble (back), and gunshot wound of lower jaw, and that he receives a pension of \$15 per month.

He makes the following statement, upon which he bases his claim for increase: Claimant dates the beginning of his back trouble in 1863, while in active service. He attempted to jump a ditch and miscalculated the width of the ditch and fell short of the opposite side, and this threw him backward and sprained his back; he was carried to the hospital, where he was treated six weeks before he was able to walk. He has always been troubled with his back, and has spent hundreds of dollars for medical treatment, without avail. The gunshot wound pains him considerably during stormy weather.

Upon examination we find the following objective conditions: Pulse rate, 96; respiration, 18; temperature, 99; height, 5 feet 9½ inches; weight, 140 pounds; age, 67 years.

Injury to spine: We find claimant very tender to pressure over the backbone, from the fifth dorsal vertebra to the base of the sacrum. We discover no curvature of spine. The muscles over the lumbar region are somewhat emaciated. He has, at times, attacks of vertigo; no spasms or convulsions. The pulse rate is 96; the pulse seems to beat regularly, and we discover no diseased condition of the heart.

The patellar reflex of both legs is entirely lost. There is a loss or impairment of sensation in both legs below the knees and in both feet. He is unable to determine the seat of sensation when pricked with a pin on either leg or foot. There is paralysis of both legs.

He is unable to stand on his feet and has been unable to take a step for four years, although while sitting in a chair he is able to work the ankle joint a very little and also lift the foot about 6 inches from the foot rest. There is also a paralysis of the bladder, an inability to pass water, except a very little at a time, and then after a prolonged effort. There is also a paralysis of the lower bowel, or a chronic constipation, and he has to be given an enema daily to move the bowels. No paralysis of any other portion of the body; no evidence of epilepsy; no aphasia; no disturbance of special senses, except a loss of memory to a certain extent, and impaired vision, which may result from age; no impairment of hearing; no evidence of insanity; breathing regular; no difficulty in swallowing or speech; pain at times at nape of neck and shoulders; at times a sense of constriction around abdomen. * * *

Gunshot wound of lower jaw: We find scar of wound on right side of face over the lower edge of inferior maxillary bone, about midway between the mental process and the posterior inferior angle.

This scar is where the ball entered. He claims the ball went through the lower jawbone on right side, through the tongue, and came out on the left side just below the edge of the lower bone, or left side of the neck. There is a wound of exit and no scar on tongue.

Scar is tender, nonadherent; a slight loss of tissue on right side where ball entered. He claims he suffers from this wound, particularly on stormy days, and at those times his speech is impaired.

Most of the time he suffers no inconveniences from the wound.

This claimant is so totally helpless from the paralysis of lower limbs and lower parts of body that he requires the regular personal aid and attendance of another person. I believe he should be in the first grade and receive \$72 per month.

H. C. JAMES, *Secretary*.

